

ORIGINAL
FILED
08 AUG 21 PM 2:04
MICHAEL W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Dawniell Zavala (State Bar No. 253130)
HOLME ROBERTS & OWEN LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105-2994
Telephone: (415) 268-2000
Facsimile: (415) 268-1999
Email: dawniell.zavala@hro.com

Attorneys for Plaintiffs,
BMG MUSIC; SONY BMG MUSIC
ENTERTAINMENT; UMG
RECORDINGS, INC.; VIRGIN RECORDS
AMERICA, INC.; WARNER BROS.
RECORDS INC.; and ATLANTIC
RECORDING CORPORATION

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION

JCS

BMG MUSIC, a New York general partnership;
SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership; UMG
RECORDINGS, INC., a Delaware corporation;
VIRGIN RECORDS AMERICA, INC., a
California corporation; WARNER BROS.
RECORDS INC., a Delaware corporation; and
ATLANTIC RECORDING CORPORATION, a
Delaware corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. 08-3991

EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY

EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

Case No. _____
#39525 v1

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
3 of Law, hereby apply for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant # 4, who is
8 being sued for direct copyright infringement.

9 2. As alleged in the complaint, Defendant Doe, without authorization, used an online
10 media distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted
11 works to the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have
12 identified Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date
13 and time of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
20 Rule 26(f) conference where there are no known defendants with whom to confer.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

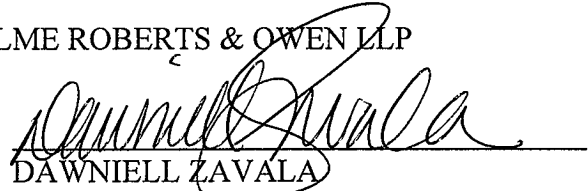
28 ///

1 WHEREFORE, Plaintiffs apply for an Order permitting Plaintiffs to conduct the foregoing requested
2 discovery immediately.

3
4 Dated: August 21, 2008

HOLME ROBERTS & OWEN LLP

5
6 By


DAWNIELL ZAVALA

Attorney for Plaintiffs

7 BMG MUSIC; SONY BMG MUSIC
8 ENTERTAINMENT; UMG RECORDINGS,
9 INC.; VIRGIN RECORDS AMERICA, INC.;
10 WARNER BROS. RECORDS INC.; and
11 ATLANTIC RECORDING CORPORATION
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28